

1 translators is to provide service in areas where direct
2 reception of radio service is unsatisfactory due to
3 distance or intervening terrain obstructions. How much
4 do you want to read?

5 Q The entire paragraph.

6 A Oh. Let's see, terrain obstructions. After a review
7 of the comments submitted in response to the Notice and
8 our own analysis of these issues we conclude that our
9 existing regulatory structure does not adequately
10 insure that the FM translator service achieves its
11 intended purpose. We are aware of the need to clarify
12 and amend several rules in order to insure that radio
13 broadcast -- FM radio broadcast stations are not
14 adversely affected by translator operations. We also
15 have determined that several rules should be modified
16 to assure that translators better serve the public.

17 Q Directing your attention to paragraph six, you don't
18 have to read the entire paragraph but what I would like
19 you to read into the record begins with the fourth
20 sentence and continues through the seventh sentence.
21 And we can count down together. Beginning with with
22 respect, do you see that?

23 A With respect to service issues?

24 Q Yes.

25 A With respect to service issues an FM translator may not

1 be licensed to a commercial FM broadcast station if the
2 translator's coverage contour goes beyond the primary
3 station's coverage contour. However in white area
4 situations beyond the protected contour of any full-
5 time aural service we will be favorably disposed
6 towards request for waivers of our rules to permit
7 commercial primary station ownership. Commercial
8 primary stations may financially support fill in
9 translators both before and after the translator
10 commences operation. However commercial primary
11 stations may provide no financial support beyond
12 technical assistance to FM translators serving other
13 areas although we will favorably view waiver requests
14 to allow financial support for translators in white
15 areas.

16 Q All right. Thank you.

17 A Uh-huh (affirmative).

18 Q And I would like to direct your attention next to
19 paragraph 15 and if you could just note that paragraph
20 15 follows the heading ownership restrictions. Do you
21 see that?

22 A Yes.

23 Q And directing your attention to paragraph 22 which is
24 in the same section and follows the word rule. Or
25 actually it's paragraph 22, then the word rule. If you

1 could read into the record please the first two
2 sentences.

3 A Most of the commenters on this issue agree with our
4 proposal to change the ownership rule. We now adopt
5 that proposal, including the provision distinguishing
6 between fill in and other area translators which will
7 permit commercial FM stations to own FM translators
8 only where the FM translator coverage area is entirely
9 contained within the coverage contour of the primary
10 station.

11 Q Thank you. Now directing your attention to paragraph
12 23, please read aloud the entire paragraph.

13 A The Commission believes that the record lacks the
14 evidence to suggest that a white area exception to our
15 ownership rule would noticeably improve coverage and
16 public service and leads us to conclude that a specific
17 white area exception is unnecessary. However, in
18 situations where a licensee establishes that service is
19 indeed unavailable we will be favorably disposed toward
20 requests for waivers of this rule to address these
21 unique circumstances. Within the context of this
22 proceeding we will define a white area as any area
23 outside the coverage contour of any full-time aural
24 service. We emphasize that in order for commercial
25 primary stations to own translators in such area the

- 1 Commission will require a showing of a lack of service
2 in accordance with the white area definition given
3 above. Independent party ownership of translators in
4 white areas will be permitted under the general
5 provisions of this rule. With respect to provision of
6 service to remote area experiencing limited radio
7 service we note that ownership restriction does not
8 prohibit FM translator service in these other areas, it
9 simply rules out commercial primary FM station
10 ownership of such translator stations, independent
11 parties may establish FM translators to serve any area.
- 12 Q Thank you. Directing your attention to paragraph 56.
13 You will note that the heading above that paragraph
14 concerns signal delivery, correct?
- 15 A Uh-huh (affirmative). Yes.
- 16 Q Now I would like to direct your attention to paragraph
17 61 in that same section and the word rule follows and
18 if you could please read the first sentence aloud.
- 19 A We will change the signal delivery rule to permit
20 commercial translators providing fill in service to use
21 any terrestrial transmission facilities in order to
22 obtain the primary station's signal, including but not
23 limited to microwave, phone company circuits and
24 dedicated fiber optic cable.
- 25 Q Now it may be a little difficult to read, but do you

1 note the footnote that appears after that sentence?

2 A Yes.

3 Q And that footnote number is 59?

4 A Yes.

5 Q And if you would turn to it would be page 7245 as it
6 appears on the bottom of the document. Now footnote 59
7 appears on that page and there appears to be two
8 paragraphs. If you could read into the record the
9 second paragraph of footnote 59.

10 A We intend that our decisions herein not alter in any
11 fashion the special treatment we accord Alaska Wrangell
12 Radio Group, 75 FCC 2D404, 1980. Upon appropriate
13 showing the Commission has accommodated Alaska's unique
14 lack of adequate communication services by granting
15 waivers allowing program origination, alternate signal
16 delivery and cross service translating.

17 Q Thank you. Now I would like to direct your attention
18 to paragraph 138. And you see that the heading
19 immediately preceding that paragraph first reads other
20 matters and then it reads grandfathering criteria for
21 existing translators.

22 A Uh-huh (affirmative). Yes.

23 Q Now I would like to direct your attention to paragraph
24 144 which is in that section and if you could please
25 read aloud the first five sentences.

- 1 A The new service requirements for independently owned FM
2 translators are, however, more stringent than those
3 imposed by our earlier rules. For example, under the
4 new rules commercial primary stations will not be
5 permitted to provide financial support for
6 independently owned translators located in other areas.
7 We believe that because many FM translator licensees
8 have limited financial means service to the public
9 could be unnecessarily disrupted if we were to require
10 rapid compliance with these new rules.
- 11 Q And I believe the next sentence as well.
- 12 A Existing FM translator operations will need some time
13 to obtain alternative sources of funds.
- 14 Q And the next sentence.
- 15 A Therefore we will require existing FM translator
16 operations to come into compliance with the new service
17 rules within three years of the effective date of these
18 new rules.
- 19 Q Thank you. Now before today did there come a time when
20 you personally became aware of any of the portions of
21 the Commission's 1990 Report and Order that you just
22 read?
- 23 A Yes.
- 24 Q And approximately when?
- 25 A I do not know. I couldn't -- cannot give you a date.

- 1 Q Would it be fair to say that it took place after June
2 1, 1994?
- 3 A I don't have a date, cannot tell you.
- 4 Q Now did you happen to discuss the Report and Order
5 portions that you just read into the record with
6 anyone?
- 7 A I discussed in particular footnote 59, we discussed it
8 thousands of times perhaps. That may be an
9 exaggerations. Hundreds of times with Jeffrey
10 Southmayd.
- 11 Q And did you discuss it with anyone other than Jeffrey
12 Southmayd?
- 13 A No, he's my legal counsel.
- 14 UNIDENTIFIED FEMALE: (Indiscernible).
- 15 Q Now other than footnote 59 did you discuss any of what
16 we just read with anyone other than Mr. Southmayd?
- 17 A No. Not to my know -- recollection.
- 18 Q Now focusing on the date of release of the Commission
19 Report and Order which is December 4, 1990, Peninsula
20 was operating two FM translators in Kodiak at that
21 time, correct?
- 22 A Yes.
- 23 Q And Peninsula was also operating an FM translator that
24 was serving Kenai and Soldotna?
- 25 A Yes.

1 Q Peninsula was also operating an FM translator that
2 served Anchor Point which was rebroadcasting KPEN?

3 A Yes.

4 Q And at the time of the release of the Commission's 1990
5 Report and Order Peninsula was operating an FM
6 translator serving Homer which was rebroadcasting KPEN,
7 correct?

8 A Yes.

9 Q Now, subsequent to the release of the Report and Order
10 in December of 1990 did Peninsula seek a waiver of the
11 new version of Section 74.1232(d) of the Commission's
12 rules for any of its translators?

13 A No.

14 Q Now the next document I'd like you to look at is styled
15 Memorandum Opinion and Order in MM Docket Number 88-140
16 released July 28, 1993. Directing your attention to
17 paragraph one if you could please read aloud the last
18 two sentences of that paragraph.

19 A By this Memorandum Opinion and Order we affirm and
20 further clarify the FM translator rules including the
21 revised standards for ownership and financial support
22 of translators the definition of major change in
23 translator coverage.

24 Q It's a little confusing, but it carries over to the
25 next column.

1 A Major change in translator coverage areas, maximum
2 power output and interference criteria for translators
3 we also adopt minor amendments in the grandfathering
4 criteria and technical aspects of local program
5 origination.

6 Q Thank you. Now, I would like to direct your attention
7 to paragraphs eight and nine. And those paragraphs you
8 can simply read to yourself.

9 (Pause)

10 Q And you've completed reading those paragraphs?

11 A Yes.

12 Q Now I would like to direct your attention to paragraphs
13 44 through 48. And again, you can simply read those to
14 yourself.

15 (Pause)

16 A What were the sections?

17 Q Paragraphs 44 through 48.

18 (Pause)

19 A All right.

20 Q Before today did there come a time when you personally
21 became aware of any of the portions of the Commission's
22 1993 Memorandum Opinion and Order that you just read?

23 A I would say I was generally aware of the Commission's
24 stance on grandfathering, however our interpretation of
25 footnote 59 was such that we did not believe that it

1 was applicable to Alaska.

2 Q And when you're referring to our interpretation you
3 referring to previous testimony about your
4 conversations with Mr. Southmayd?

5 A That's correct.

6 Q And again, with respect to the 1993 Memorandum Opinion
7 and Order, did you discuss your understanding of this
8 Order with anyone other than Mr. Southmayd?

9 A No. He is my legal counsel, I did not discuss it with
10 anyone else.

11 Q Now again, at the time of the Commission's 1993
12 Memorandum Opinion and Order Peninsula operated two FM
13 translators in Kodiak which were broadcasting KPEN and
14 K Wave?

15 A That's correct.

16 Q At the time of the 1993 Memorandum Opinion and Order
17 Peninsula had FM translators, one in Kenai and one
18 serving Kenai and Soldotna?

19 A Yes.

20 Q And at the time of the 1993 Memorandum Opinion and
21 Order Peninsula had an FM translator in Anchor Point
22 which was broadcasting the Kenai and Soldotna station?
23 And by Kenai and Soldotna I'm referring to the one
24 that's dual licensed.

25 A Yes.

- 1 Q And likewise, at the time of the 1993 Memorandum
2 Opinion and Order Peninsula had an FM translator
3 serving Homer which was broadcasting the Kenai and
4 Soldotna station where that station was dual licensed.
- 5 A I don't understand the question.
- 6 Q Or excuse me, I misphrased that. At the time of the
7 1993 Memorandum Opinion and Order Peninsula had an FM
8 translator serving Homer which was rebroadcasting KPEN.
- 9 A Yes.
- 10 Q Now subsequent to the release of the Memorandum Opinion
11 and Order of the 1993 Memorandum Opinion and Order did
12 Peninsula seek a waiver of Section 74.1232(d) of the
13 Commission's rules for any of its translators?
- 14 A No. We were -- our interpretation of the footnote 59
15 was that it did not alter in any fashion the special
16 treatment that was accorded Alaska and therefore we did
17 not believe it necessary to seek a waiver because we
18 had licenses good through '96.
- 19 Q Now, do you know John Davis of KSRM, Inc.?
- 20 A Yes.
- 21 Q And approximately how long have you known Mr. Davis?
- 22 A Ever since I've been on the air, since 1979.
- 23 Q Is KSRM, Inc. currently a business competitor of
24 Peninsula?
- 25 A Yes.

- 1 Q And roughly how long has KSRM, Inc. been a business
2 competitor of Peninsula?
- 3 A As long as we've been on the air which has been 23
4 years.
- 5 Q And that's because there was a translator that they had
6 in Homer at about the same time you came on the air?
- 7 A Yes. They came on with their translator one month
8 before our first FM station came on the air in 1979.
- 9 Q Now do you recall that we had talked earlier in the
10 deposition about KSRM, Inc.'s operation of an FM
11 translator in Homer?
- 12 A Yes.
- 13 Q And would it be your understanding that KSRM, Inc.'s
14 translator in Homer was what the Commission would call
15 an other area translator?
- 16 A Well, it certainly wasn't fill in, it was beyond its
17 one millivolt contour so it would have to be other
18 area.
- 19 Q Now during the operation of KSRM, Inc's translator in
20 Homer would it be fair to say that it was your belief
21 that the operation of such translator was affecting
22 Peninsula financially in an adverse way?
- 23 A Yes. We filed a Petition with the Commission to
24 terminate the operation of that translator.
- 25 Q Now did there come a time when KSRM, Inc. stopped

1 operating its translator in Homer?

2 A Yes.

3 Q And do you know approximately when?

4 A To the best of my recollection -- recollection I would
5 say May of 1994.

6 Q And did there come a time when you learned why KSRM,
7 Inc. stopped operating its FM translator in Homer?

8 A No.

9 Q What understanding, if any, do you have as to why KSRM,
10 Inc. stopped operating its FM translator in Homer?

11 A My understanding would be that he turned it off in
12 hopes that I would turn mine off.

13 Q Now during the period that KSRM, Inc. operated its
14 translator in Homer it would be fair to say that you
15 competed with KSRM, Inc. for radio advertising in
16 Homer?

17 A Yes, for 15 years.

18 Q And during the period that KSRM, Inc. operated its
19 translator in Homer was it your understanding that
20 KSRM, Inc. had a measurable market share of the radio
21 audience in Homer?

22 A Yes.

23 Q As a result of KSRM, Inc.'s action in turning off its
24 translator in Homer did Peninsula benefit financially?

25 A I don't know.

1 Q Now as of today does Peninsula operate an FM translator
2 that provides programming to the residents of Kenai on
3 FM channel 285?

4 A Yes.

5 Q And for purposes of the next couple questions we'll
6 just refer to that as the Kenai translator.

7 A Uh-huh (affirmative).

8 Q Has Peninsula operated the Kenai translator
9 continuously from May 19, 2001 to the present?

10 A Yes.

11 Q And is it your under -- would it be your understanding
12 that Peninsula's operation of the Kenai translator
13 during this period, the period May 19, 2001 to the
14 present, result in any revenue for Peninsula?

15 A The revenue that we gain from the sales of advertising
16 time includes our -- our full service stations and
17 whatever revenue comes in from the fact that we have
18 translators on the air. We sell our full service
19 stations and the revenue that comes in as a result of
20 wherever that signal happens to go, whether it's the
21 main signal or via translators.

22 Q And that would be fair to say with respect to any of
23 the translators that you have. So rather than me
24 repeating the same question.....

25 A Uh-huh (affirmative).

1 Qor series of questions for the other translators,
2 that answer would apply to.....

3 A Yes.

4 Qall of the translators.

5 A Uh-huh (affirmative).

6 Q Now, does Peninsula's operation of the Kenai translator
7 result in any expenses for Peninsula?

8 A Yes, there are expenses involved with electricity and
9 equipment leases and so forth, yeah.

10 Q And do you know approximately how much per month it has
11 cost Peninsula to operate the Kenai translator since
12 May of 2001?

13 A I can't tell you here. It could probably be
14 ascertained.

15 Q Now Mr. Becker and Jeff, with respect to that question
16 would you be able to follow up with that and give us a
17 rough breakout of what it costs per month to operate
18 the translators?

19 A May I respond?

20 Q Certainly.

21 A I gave you in your request for documents -- I don't
22 know if it's in this stack, but there was a breakout of
23 what the equipment leases are and I don't think I told
24 you what the electrical costs were, but you have some
25 idea of what the leases are, what the -- in particular

1 AT and T Alascom, that's the only site where we pay
2 rent.

3 Q All right. So we have some documents in our
4 possession.....

5 A Yes.

6 Qso far as you know.....

7 A Uh-huh (affirmative).

8 Qthat would help us assess this.

9 UNIDENTIFIED FEMALE: (Indiscernible - not at mic).

10 Q But in terms of the electric bills, is that something
11 that we could -- gather you could simply tell us?

12 A Well, I would like my counsel to advise me whether or
13 not I need to produce it.

14 Q That's fine. Well that's something we can talk with
15 him about then.

16 A Uh-huh (affirmative).

17 Q Now given that we don't have at this stage for purposes
18 of this deposition a really clear picture of revenues
19 versus expenses with respect to the Kenai translator,
20 would it be your understanding though that the
21 operation of that translator has been profitable for
22 Peninsula since May of 2001?

23 A I cannot answer that.

24 Q Would it be your answer that it has cost Peninsula more
25 to operate the translator than it's been worth?

- 1 A I don't know how to answer that. We have lost money
2 our last -- we just did our -- our corporate tax return
3 was filed yesterday, we lost \$26,000.00 in 2001. How
4 do you determine, you know, profitability? We lost
5 money for the whole year, so I don't know if that's a
6 fair statement or not.
- 7 Q Well, just so I understand, in terms of losing money
8 what you're referring to is Peninsula's entire
9 operation.
- 10 A Yes.
- 11 Q Correct?
- 12 A Uh-huh (affirmative).
- 13 Q And all I'm asking at this point is whether you have
14 analyzed it to the point where you could understand
15 that operation of the Kenai translator, for example, is
16 either more or less expensive than the money it brings
17 in.
- 18 A I have not analyzed it. All the money comes in from
19 sales, we pay all our expenses and if we lose -- you
20 know, if we have a loss then we have lost money. I
21 can't tell you if that individual station is profitable
22 or not, we don't sell advertising on that individual
23 station, we sell advertising on our full service
24 stations. And that's -- that's where we determine our
25 revenue and that's where all our expenses are accounted

1 for. We don't do any individual accounting for
2 individual translators.

3 Q So if I were to ask the same series of questions
4 relative to the other translators the answers would
5 be.....

6 A I don't know.

7 Q as you just gave them.

8 A Yes.

9 Q Now do you know whether the operation of the Kenai
10 translator has any impact on the number of listeners
11 for K Wave, KWVV FM?

12 A Yes.

13 Q And what is it -- what is your understanding of that
14 impact?

15 A Well, it would assist us in providing a better signal
16 and therefore we would expect we'd have more listeners.

17 Q Do you acknowledge that the coverage contour of the
18 Kenai translator extends beyond the protected contour
19 of KWVV FM?

20 A Yes, obviously.

21 Q Are you aware that the FCC has ordered Peninsula to
22 stop operating the Kenai translator?

23 A Yes.

24 Q Do you acknowledge that the FCC ordered Peninsula to
25 stop operating the Kenai translator because the FCC

1 found that the translator's ownership by Peninsula was
2 inconsistent with Section 74.1232(d) of the
3 Commission's rules?

4 A Read the question again.

5 Q Do you acknowledge that the FCC ordered Peninsula to
6 stop operating the Kenai translator because the FCC
7 found that the translator's ownership by Peninsula was
8 inconsistent with Section 74.1232(d) of the
9 Commission's rules?

10 MR. SOUTHMAYD: I'm going to object to that. I think
11 it calls for a legal opinion. I don't think he's been asked
12 whether he has a legal opinion.

13 MR. SHOOK: I'm just asking for his understanding Jeff.

14 A I don't fully understand the question. Because the FCC
15 may have terminated it for some other reason, which is
16 what my opinion is, not because of the ownership
17 restriction of 74.1232(d).

18 Q Well, in terms of your opinion then, what is it that
19 you think that the FCC based its decision on?

20 A The termination order made no provision for appeal.
21 And therefore the termination order to tell me to
22 terminate operation with no provision for appeal was -
23 - we consider an unlawful order.

24 (Whispered conversation)

25 Q I think the focus of the question though was more on

1 why -- what is your understanding as to why the FCC
2 terminated the operation.

3 A I think -- my opinion is the FCC is trying to force
4 compliance with the rule change but the FCC has failed
5 to acknowledge the Alaska exception and so they're
6 forcing compliance with the rule change without any
7 consideration of the exceptions that were made in
8 licensing these translators in the first place.

9 Q Now is it your understanding that Peninsula's operation
10 of the Kenai translator is inconsistent with Section
11 74.1232(d) of the Commission's rules?

12 A I would qualify it by saying that it may be
13 inconsistent with the present form of the rule, however
14 we believe we have an exception granted under 59,
15 footnote 59.

16 Q So are you claiming that such operation is consistent
17 with the rules because Peninsula has some kind of
18 waiver to operate the Kenai translator at variance with
19 the rule?

20 A We sought and received by virtue of the fact that we
21 were granted licenses. All necessary exceptions that
22 we -- were made for these Alaska translators.

23 Q Now has Peninsula ever received from the Commission a
24 written waiver to operate the Kenai translator at
25 variance with the current version of Section 74.1232(d)

1 of the Commission's rules?

2 A I would have to ask my counsel. Jeff, do you have an
3 answer for that?

4 MR. SOUTHMAYD: Yeah, I'm not testifying.

5 THE WITNESS: Okay.

6 A All right. Twelve -- the waivers we requested in all
7 of our applications by referencing Wrangell Radio
8 Group, the staff granted our applications, we had
9 licenses that were good all the way through 1996. The
10 Commission never notified me of any necessary -- of any
11 necessity to change anything, to go in and request
12 waivers.

13 Q By notifying you, you mean notifying you personally?

14 A Peninsula. The corporation was never notified that it
15 needed to request any waiver.

16 Q And again, by notifying Peninsula what you're -- just
17 so I understand you, what you're referring at this
18 point would be a letter from the Commission or some
19 specific notification directly to Peninsula.....

20 A Uh-huh (affirmative).

21 Qthat it needed to do something?

22 A Yes.

23 Q As opposed to a notice of rulemaking or a report and
24 order.

25 A I don't understand your question.

- 1 Q Well, what I'm saying is, or what I'm getting at is
2 your contention is that Peninsula did not receive a
3 letter directly from the Commission stating Peninsula
4 Communications, you need to do something in order to
5 comply with this ru.....
- 6 A Other than the letter that came later on from Linda
7 Blair. When we went through our -- our renewal process
8 in 1996 we did get a letter from Blair stating that you
9 need to divest, sell these translators, or turn them
10 off.
- 11 Q I believe I'm going to get to that.
- 12 A I had licenses that were good through their renewal
13 cycle of 1996. I never received any show cause order
14 or any other notification requiring me to modify my
15 licenses. I did not receive a 316 notice, anything
16 that indicated that I had to modify my licenses. I
17 renewed them as always in 1996 and that's when we got
18 the petitions to deny.
- 19 Q Now what I'd next like you to look at is a document
20 that bears the date of September 30, 1997. And the
21 first page is a cover letter and then if you proceed on
22 from that it appears to be an FCC 303S application for
23 renewal of license for AM, FM, TV, translator or LP TV
24 station. And do you have that document in front of
25 you?

1 A Yes.

2 Q Now, I'd like you to first of all go to the third page
3 of that document. Actually the -- it would be the
4 fourth page. Including the -- when we include the
5 cover letter if you could go back one page. There.
6 And there's a document in here bearing a date of
7 September 25, 1997 and it has a signature on it. Is
8 that your signature?

9 A Yes.

10 Q And this concerns the Commission's environmental rules?

11 A Yes.

12 Q All right. Now if you proceed two more pages there's a
13 page that has a section styled certification and it has
14 the printed name of David F. Becker and I ask you
15 whether your signature appears there as well.

16 A Yes.

17 Q And the date is September 25, 1997?

18 A Yes.

19 Q Now, one page earlier -- I would direct your attention
20 to section number five of the paragraph numbering five.
21 And if you could read the question and then your answer
22 for part A.

23 A Is the applicant in compliance with 47 CFR Section
24 74.1232(d) which prohibits the common ownership of a
25 commercial primary station and an FM translator station

1 whose coverage contour extends beyond the protected
2 contour of the commercial primary station being
3 rebroadcast? This restriction also applies to any
4 person, entity having an interest in or connection with
5 the primary FM station. The answer is no.

6 Q All right, that was the box that was checked?

7 A Yes.

8 Q And then it says if no attach an explana -- or Exhibit
9 as an explanation.

10 A Yes.

11 Q And what does the Exhibit read?

12 A Exhibit number one, the applicant has an application
13 pending before the Commission to assign a license for
14 this translator to coastal broadcast communications.
15 See FCC file BALFT970701TX. Accordingly the applicant
16 is proposing to divest the ownership of this translator
17 and to bring the ownership thereof into compliance with
18 the Commission rules and policies.

19 Q Now, as I understand it, and if you wish we can go
20 through each document, but each of the renewal
21 applications for the following translators, K283AB
22 Soldotna, K274AB Kodiak, K285AA Kodiak, K257DB Anchor
23 Point and Seldovia and K272CN Homer and K265CK Kachemak
24 City all respond in the same manner to question five A
25 as to whether or not the applicant is in compliance

1 with Section 74.1232(d)?

2 A Yes.

3 MR. SHOOK: Now Jeff, if you don't mind I would like to
4 take a five minute water slash bathroom break at this point.

5 MR. SOUTHMAYD: Sure. You know, that's fine with me.

6 THE REPORTER: Off record.

7 (Off record)

8 (On record)

9 THE REPORTER: On record.

10 MR. SHOOK RESUMES:

11 Q Mr. Becker, would it be fair to state that you believe
12 one justification for Peninsula's continuing operation
13 of all of the translators that we have been talking
14 about, the other area translators, appears in that
15 footnote 59 of the Commission's 1990 Report and Order?

16 A Yes.

17 Q And I'm not -- we may have -- I may have asked this
18 question before, but just to clarify it again,
19 approximately when did you come to this conclusion?

20 A Well, I would say it'd be sometime in the late '95 or
21 '96 when we got into the renewal proceeding and we were
22 challenged on our license renewals.

23 Q And notwithstanding that belief and the timing of that
24 conclusion you noted that the applications that we just
25 got finished looking at bearing a date of September of

1 1997 acknowledge that Peninsula was not in compliance
2 with Section 74.1232(d) of the Rules.

3 A As presently -- as revised. This is the application.
4 This is the second renewal cycle.

5 Q Correct.

6 A Where we had already proposed to sell our translators
7 to Coastal Broadcasting.

8 Q Correct. But the basis for my question, the reason for
9 my curiosity here, is that the -- if you had come to
10 the conclusion more than a year earlier that footnote
11 59 justified or allowed your continuing operation of
12 the translators and that you were in compliance with
13 the Commission's rules, I don't understand how it is
14 that you could then say in applications that you
15 weren't in compliance.

16 A The application didn't -- I mean -- we were in the
17 process of selling these things so in my mind it was
18 immaterial. These were going to be transferred to
19 Coastal so the compliance issue wasn't really an issue
20 for us. Coastal was buying it and this matter was
21 supposed to disappear as soon as we transferred to
22 Coastal, so it wasn't an issue. I wasn't fighting to
23 retain ownership at that point.

24 Q Now, let's look again at the Report and Order. That's
25 one of the documents that is back in the stack there.